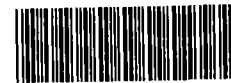




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029



SDMS DocID 2100448

Via Federal Express

October 4, 2004

Lawrence L. Manypenny, Esq.
106 Court Street
P.O. Box 638
New Cumberland, WV 26047

Re: 8th and Plutus Streets Pottery Superfund Site, Chester, West Virginia

Dear Mr. Manypenny:

I have enclosed a copy of the recently executed Consent Order (EPA Docket No. CERC-03-2004-0255) for a removal response action at the 8th and Plutus Streets Pottery Superfund Site in Chester, West Virginia. Rock Springs Enterprises, Inc., whom you represent, is the owner of a substantial portion of the Site. The Consent Order has been issued pursuant to Sections 106 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606 and 9612, more commonly known as "Superfund." Under the Consent Order, Newell Holdings Delaware, Inc. (f/k/a Anchor Hocking Corporation) has agreed to perform a clean-up at the Site to address elevated levels of lead and polychlorinated biphenyls ("PCBs") found at the Site in soils, sediments, and/or ceramic debris. Newell (d/b/a Anchor Hocking) formerly owned and operated a ceramic pottery manufacturing facility at the Site.

In previous telephone conversations and correspondence, you have stated that Rock Springs cannot fund or participate in the clean-up of the Site, but that Rock Springs would cooperate in whatever way it could, including, but not limited to, providing access to the Site property to EPA, Newell, and their respective contractors during the clean-up at the Site. Please review the Consent Order and, in particular, Section XI's provisions regarding access. Under the terms of the Consent Order, Newell will make arrangements with Rock Springs for appropriate access to the Site property.

I would also like to respond to your letter of September 8, 2004. In that correspondence, you mention that "several years ago," someone from EPA allegedly told your client, Mr. Dietz, certain information about how a response action might unfold. To the best of my knowledge and belief, EPA's first involvement at the Site was around 1999. It is possible that the person with whom Mr. Dietz spoke was someone affiliated with the West Virginia Department of Environmental Protection ("WVDEP"), not EPA. Nevertheless, the only response action ever selected for the Site by EPA is that set forth in the Consent Order and the Action Memo, which is Exhibit C to the Consent Order. The Consent Order requires excavation, removal, and off-Site



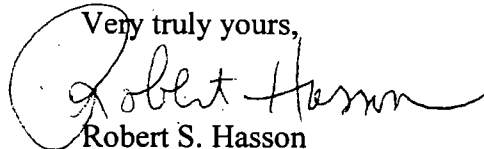
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disposal of contaminated soils (See paragraphs 8.3(g), (h), and (i)), and does not provide for on-Site disposal of excavated soils into the basement of the main building, as described in your letter. However, the Consent Order does provide for the possible capping of those parts of the Site where contamination remains in soils at a depth of more than two feet below the native ground surface.

I hope that I have provided you with sufficient information to answer your questions. If you have any further questions, please contact me at (215) 814-2672.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert Hasson", is written over a circular embossed or stamped seal.

Robert S. Hasson
Assistant Regional Counsel

Enclosure

cc: Dennis Matlock (3HS32)
Andrew L. Sawula, Esq.



FAX TRANSMISSION

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To: Larry Manypenny, Esq.
Manypenny and Carey
106 Court Street
P.O. Box 638
New Cumberland, WV 26047
(304) 564-5151
(304) 564-3130

Date: October 4, 2004

From: Robert S. Hasson
EPA – Region III
Office of Regional Counsel
1650 Arch Street
Philadelphia, PA 19103-2029
(215) 814-2672
(215) 814-2603 (Fax)

Pages: 4, including this cover

Subject: 8th and Plutus Streets Pottery Site

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